

The January 8th Files: Inside Brazil's Secret Judicial Task Force for Mass Arrests

By David Ágape and Eli Vieira

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On January 8, 2023, Brazil faced its own version of January 6. Thousands of Jair Bolsonaro's supporters, angered by alleged election fraud and the return of a convicted corrupt politician to power, stormed government buildings in Brasília. Many were elderly and none were armed. Yet, within hours, the Supreme Court and much of the press had classified the event as an "attempted coup" and labeled the protesters as "terrorists."

What came next was an unprecedented crackdown: mass arrests, censorship orders, and the concentration of extraordinary powers in the hands of a single judge: Alexandre de Moraes — the same judge who, twenty months later, ordered the shutdown of the social media platform X in Brazil for 40 days.

New leaked documents — including unpublished material from the archive originally uncovered by journalists Glenn Greenwald and Fábio Serapião last year in the "Vaza Toga" Files (literally "judicial robe leaks") — reveal that Moraes set up a parallel intelligence structure inside Brazil's top courts and personally oversaw every stage of the operation, directing a covert effort from within his own judicial chambers that bypassed traditional legal channels.

At the time, Moraes held two powerful roles: Justice of the Supreme Court (STF) and President of the Electoral Court (TSE), the body that oversees elections in Brazil. He used this dual position to bypass legal boundaries, turning court officials into a de facto intelligence unit. Although the operation was directed from his Supreme Court office, key tasks fell to the TSE's disinformation team — originally created to monitor online election content — which was pressured to participate despite having no jurisdiction over criminal matters. By then, the elections were long over, Lula was already in office, and, according to

legal experts, the Electoral Court had no formal mandate to engage in criminal investigations.

The task force operated through a WhatsApp group. Instead of legal charges or formal evidence, it relied on informal “reports” generated through access to sensitive databases and improvised digital surveillance. A simple commentary could be enough to brand someone with a “positive report” — an informal classification that, in practice, helped to keep someone in jail. These reports were never shared with defense attorneys and were never reviewed by prosecutors.

Official records from the STF show that only 243 people were arrested on January 8 inside government buildings. They were charged with extremely serious crimes such as attempted coup d’état, violent abrogation of the democratic rule of law, and participation in a criminal organization, later receiving sentences of up to 17 years — as severe as those given to violent offenders — even though most had not committed any act of vandalism. The accusations were generic, severe, and not individualized; simply walking through Congress was enough to be accused of trying to overthrow the state, including cases of three homeless individuals, children and elderly people with serious health conditions. In addition, the Supreme Court imposed a collective fine of R\$ 30 million, to be shared solidarily among all those convicted, regardless of their individual actions.

However, the vast majority — 1,929 people — were detained the next day at military camps, where thousands had gathered after the election to protest peacefully. On Moraes’s orders, they were [deceived](#) by the very Army they trusted: officials told them they would be taken to the bus station to return home but instead handed them over to the police, who drove them directly to prison. Ironically, the Brazilian Army had previously described those gatherings as legitimate expressions of free speech.

By contrast, leftist movements have a long history of invading public buildings without facing comparable consequences. In 2014, landless activists attempted to invade the Supreme Court, injuring several police officers and forcing the suspension of a session. In 2006, another group of landless activists stormed Congress, toppling cars, smashing doors, destroying property and seriously injuring staff — including a security chief who suffered a fractured skull.

Then-President Lula called their actions “vandalism” — a term now treated as too lenient for the January 8 protestors — but [worked behind the scenes](#) to secure their release. Most of the perpetrators were freed within weeks. At the time, Alexandre de Moraes described the MLST protests as “criminal acts,” but not an institutional threat, and supported sentences of up to four years — unlike the 17-year terms imposed today.

Over the past decade, left-wing groups have carried out [dozens of invasions and acts of depredation](#) against public buildings, often leaving a trail of destruction, yet rarely facing collective indictments or the harsh sentences now handed down to the January 8 defendants.

In the current crackdown, officials even enlisted outside collaborators — political activists, universities, and fact-checking agencies — to infiltrate private group chats or uncover incriminating posts. Moraes himself authorized these actions through emails sent to his personal account, bypassing all institutional channels.

We submitted the leaked conversations and official records to legal scholars to identify potential illegalities and evaluate whether the actions were consistent with the Constitution and due process of law. Legal experts unanimously argue that the STF and TSE overstepped constitutional limits after January 8, effectively transforming the Electoral Court into a parallel investigative body without any legal mandate.

They highlight:

- Abuse of power: TSE units acted as police, using biometric data and infiltrating private groups.
- Due process violations: detentions centralized under Justice Alexandre de Moraes, deadlines ignored, and informal “certificates” used to justify prison.
- Political bias: freedom or detention often linked to ideological positions, not evidence.

The result, they warn, was a shadow justice system, where Brazil’s highest court decided who stayed in jail — not based on hearings or legal arguments, but on hastily compiled social media scans, blacklists, and improvised profiles. What began as an exceptional response to January 8 has now entrenched practices that undermine the separation of powers and the guarantees of the rule of law.

According to public defender Bianca Cobucci Rosière, author of *January 8 and the Enemy’s Criminal Law*, Brazil has institutionalized a system of selective justice, where criminal law is used not to protect democracy, but to punish dissent. For Rosière, the cases of protesters detained without individualized evidence — with many of the charges relying on mass accusations with copy-paste wording — tried without the right to appeal, and subjected to harsher penalties than those imposed for violent crimes, expose a deep deterioration of due process.

“The criminal proceedings and trials of those accused over the events of January 8 will only be legitimate under a democratic rule of law if all fundamental and human rights are respected — regardless of who the prisoner, suspect, defendant, or accused person may be,” said Rosière.

The Iron Fist Behind the Task Force

Created just five days after the riots, the WhatsApp group named “Custody Hearings” included handpicked operatives from both the Supreme Court (STF) and the Electoral Court (TSE), all deeply loyal to Moraes — and all previously named in the Vaza Toga investigation,

which exposed how these same officials helped carry out illegal surveillance, censorship, and manipulation of evidence.

- Cristina Yukiko Kusahara (STF)

Chief of staff to Supreme Court Justice Alexandre de Moraes, Kusahara created and administered the WhatsApp group that coordinated January 8 custody operations. She has been Moraes's most trusted aide since 2019, when she was formally appointed to coordinate internal operations for the now infamous [Fake News Inquiry](#) — a secret investigation widely denounced for displacing constitutional guarantees and due process, established as an expansion of STF's powers by overinterpreting its bylaws. In 2023, Kusahara was publicly honored with a military decoration typically reserved for civilians who render distinguished service to the Brazilian Army — a symbolic reward for her loyalty during Moraes's increasingly autocratic tenure.

Role in the previous Vaza Toga Files: Kusahara suggested the strategy of disguising Moraes's orders as formal requests from within the Electoral Court. Her name appears in leaked messages as the originator of the scheme to manufacture legal cover for actions that lacked proper legal basis.

- Eduardo Tagliaferro (TSE)

Then head of the TSE's Special Unit for Combatting Disinformation (AEED), Tagliaferro was the only official formally appointed by Moraes — [via publication in Brazil's government gazette](#) — to take part in the January 8 custody operations. He was responsible for producing classification reports for detainees.

Role in the previous Vaza Toga Files: A forensic expert, Tagliaferro became a key operative in Moraes's censorship network. Leaked messages show he received secret orders via WhatsApp to draft incriminating reports against preselected targets — including journalists, politicians, and media outlets. After the leaks, he was reportedly suspected of being the whistleblower and became the target of a secret investigation by the very system he worked on.

- Marco Antônio Martins Vargas (TSE)

An auxiliary judge to Moraes at the Electoral Court, Vargas was formally responsible for legal and procedural matters during the judge's presidency at the TSE.

Role in the previous Vaza Toga Files: Vargas lent institutional cover to covert operations by allowing reports secretly commissioned by Moraes's office to be attributed to him, giving them a veneer of legality. When a document accidentally revealed its true origin, he warned: "Just don't send the image — it shows it came from the TSE."

His most disturbing comment came in reference to exiled journalist Allan dos Santos, whose extradition was rejected by the U.S. and Interpol due to political

persecution. Frustrated, Vargas wrote: “Makes you want to send some hired guns (jagunços) to grab this guy by force and put him on a Brazilian plane”

- **Airton Vieira (STF)**

A judge who served as judicial advisor to Moraes at the Supreme Court, Airton Vieira was responsible for conducting many of the January 8 custody hearings.

Role in the previous Vaza Toga Files: He gave detailed instructions on how to [forge the origin of reports](#) to justify arrests and content bans, coordinated off-the-record censorship, and called for the creation of anonymous emails to “warm up” denunciations. He acknowledged the scheme’s illegality and feared exposure — which eventually came.

In a group chat, when Tagliaferro raised concerns about the lack of incriminating content in a case he was making against Revista Oeste, a Brazilian right-wing magazine, Vieira encouraged fabrication: “Use your creativity... lol.”

Among the targets was Paulo Figueiredo, a Brazilian journalist based in Florida, whose case Vieira told Tagliaferro to “make it strong” to justify freezing assets and canceling his passport; and Eduardo Bolsonaro, son of former president Jair Bolsonaro, now living in the U.S. Eduardo has stepped down from his position as a congressman to stay in America, claiming risk of persecution and a passport seizure. He’s targeted by Moraes.

Other TSE aides contributed to the investigation but rarely appeared in the group’s conversations. Their mission: to profile over 1,400 detainees in bulk, using any available digital footprint — and do it fast. Chief among them was Tagliaferro, who, with a few assistants, produced the reports based on rushed social media searches and data scraped from court databases.

Our team contacted current and former employees of TSE. The sources revealed that Kusahara acted as Moraes’s informal representative inside the TSE, despite holding no official position within the court. The orders came directly from her, who relayed demands from Moraes’s office and even pressured the judges handling the hearings. “She basically told the judges what to do,” the sources said. Though not formally assigned to the TSE, Cristina used an institutional email, gave direct instructions to staff, and oversaw the reports. “She lives 24 hours a day for Moraes and enjoys a high social standing, despite earning a low salary. I don’t know what kind of relationship they have,” says the source.



Conversation at the “Custody Hearings” WhatsApp group. Graphic elements recreated for presentation.

From the beginning, Kusahara imposed strict control and urgency. She provided the document templates and directed the flow of communication between STF and TSE staff. Kusahara made clear that the goal was to separate “hypotheses” — to determine who should stay in jail and who might be released. Once someone’s name was marked “positive,” they were treated as guilty. According to the sources, people who had posted pro-Bolsonaro content, worn green and yellow (Brazilian flag colors), followed right-wing pages, or criticized the elections were marked as “positive.” Only those who had never expressed political opinions or posted about protests were issued a “negative” report.

Kusahara’s orders were relentless. She dictated the pace and pushed for volume over accuracy. When Tagliaferro raised concerns — pointing out that the Electoral Court was never trained to conduct intelligence work — she snapped: “I need this done with caution,

but not at your TSE pace. Sorry to say, but you guys are spoiled.” His objection underscored the improvised — and illegal — nature of the operation. The TSE’s disinformation unit had no mandate to conduct investigations. But Moraes had already crossed every line.



Tagliaferro, trying to defend his team, pushed back: “You have no idea how hard they’re working, with full commitment.” He explained that the unit had originally been designed for another purpose — under Frederico Alvim, the previous head of the TSE’s disinformation division — but that even so, the staff had adapted and were doing their best. Cristina wasn’t satisfied. “Fred should have been fired months ago,” she replied — despite being an STF official with no authority over TSE personnel. The comment revealed just how deep the interference between the two institutions had become. Eventually, Tagliaferro conceded: “Yes, he’ll be removed — just not in the middle of the storm.”



The pressure and urgency imposed by Moraes's office had been building for months — dating back to the 2022 elections — and many of those involved were already exhausted. In a voice message sent to Judge Ailton Vieira shortly after the vote, Tagliaferro admitted that the workload was unsustainable, describing the orders from Moraes as “simply inhumane.”

In another message, Kusahara left no doubt about the purpose of the operation. “We have 1,200 detainees, and most will be released,” she wrote. “We can’t afford to sit around philosophizing.” The digital scans weren’t just supplemental — they would decide who stayed behind bars.



Her use of “philosophizing” referred to mounting concerns among staff about duplicated names, technical failures, and the speed of the process. But Kusahara brushed them aside: “With the Justice, we don’t have time for excuses — systems, vacations, working hours. You’re used to working at your own pace, not at the Justice’s.” The jab at vacations wasn’t random, Tagliaferro was in Italy at the time. Even so, he still had to coordinate the team remotely.

Despite working outside official hours — including weekends — the staff pressed on. At one point, Kusahara asked who was available so she could authorize overtime pay. As a Supreme Court official, she had no authority over Electoral Court employees. But that didn’t matter. Even so, according to sources, the overtime never was paid.



The pace was frenetic, the process improvised, and mistakes were frequent. Reports were sometimes issued, retracted, and reissued within minutes — often with no clear reason. The same person could go from “negative” to “positive” with a single click. No explanation was given. The group simply moved on.

The messages show staff receiving informal detainee lists directly from police — including names, photos, and ID numbers — without any formal chain of custody. In one audio clip, a federal police officer asked to keep it confidential because the data was “in high demand.” The request wasn’t just about discretion — it revealed an awareness that the material was being shared outside proper legal channels.

In another message, Kusahara openly acknowledged that the Prosecutor General had recommended release for a group of detainees. Still, Moraes refused to let them go until his team finished scanning their social media.



After the first Vaza Toga reports, on August 26, 2024, Tagliaferro was [interviewed by Oeste](#) magazine (the same right-wing magazine he had to make a case against) — one of the outlets previously censored by Moraes. In the piece, he confirmed that Moraes had personally tasked him with investigating the January 8 detainees, based on a list of about over 1,500 names sent by the Supreme Court. “There was a request to compile data on the protesters — a kind of civil record,” he said. “It took weeks of work.” The final batch of reports was completed on March 13, 2023, after which the WhatsApp group became inactive.

The next morning, August 27, Kusahara renamed the group “Custody Hearings,” restricted posting permissions, and quietly removed members — a deliberate move suggesting an attempt to erase traces of the operation just hours after it had been publicly confirmed by a key participant.



Everyone knew the process was irregular — and they went ahead with it anyway.

The Reports That Determined Who Could Walk Free

The heart of Moraes's secret detention system was the "report" ("certidão"). This document had no legal standing. It was never shared with defense lawyers. Yet it played a decisive role in determining who stayed in jail — at least, that's what the leaked messages suggest was the intent.

Everything began with informal lists sent from STF and the police with names and some including IDs. Court staff then pulled data from Brazil's Federal Revenue Service database ([bCPF](#)) and the National Driver's License Registry ([RENACH](#)). They also accessed internal systems like GestBio, the TSE's biometric voter database containing facial images, fingerprints, and personal data for nearly every adult Brazilian.

According to constitutional lawyer Richard Campanari, a member of the Brazilian Academy of Electoral and Political Law (ABRADEP), the use of GestBio for investigative purposes is unconstitutional and represents a serious misuse of sensitive personal data. He explains that the system was created exclusively for electoral purposes, such as preventing duplicate voter registrations, and its use outside this scope violates the principle of purpose limitation set forth in the Constitution and the Brazilian General Data Protection Law (LGPD). Campanari also warns that accessing biometric data without a proper judicial order or explicit legal authorization not only breaches data protection laws but could amount to abuse of authority and the creation of a clandestine surveillance apparatus.

This wasn't the first time Brazilian authorities bent the rules. The [Twitter Files Brazil](#) revealed how, in the years leading up to the 2022 election, the TSE pressured platforms to hand over user data — including IP addresses and private messages. The court orders targeted citizens who posted hashtags critical of the Brazilian electronic voting machines. What the Twitter Files exposed as exceptional — the targeting of people for their political opinions — is now revealed as a pattern.

As with the Twitter case, the “reports” produced from GestBio queries were never part of the official record. Some were quietly stored in the Electoral Court’s internal system — still accessible online via direct links — but defense attorneys say the reports do not appear in the official legal files of their clients — neither in the criminal actions nor in the procedural petitions. They were invisible in court, but decisive in practice.

The use of the GestBio by the disinformation team was authorized in September 2022 by TSE Judge Benedito Gonçalves. However, access to the system was not immediately granted, as there were doubts over whether the electoral corregidor even had the authority to grant such access. According to sources, system administrator Iuri Camargo Kisovec resisted, fearing he could be held personally responsible for any misuse of the system. He was reportedly uneasy about the AEED’s growing influence within the court and its close alignment with Moraes, whom he viewed as authoritarian. As Moraes’s favored unit, the AEED was seen as politically delicate, and Camargo feared that granting access to GestBio could eventually be used against him. Our team contacted Kisovec, but has not yet received a response.

The electoral registry has always been the pride of the TSE and of its career staff, who have long feared that this data could one day be misused. In fact, not even the Federal Police had a biometric database comparable to the TSE’s. Now, taking advantage of the fact that the line has already been crossed, the sources say the Federal Police is querying the system too.

As politically appointed officials come and go with each new administration — often with no real commitment to the institution — they openly demonstrate contempt for the integrity of the Electoral Justice system. Career staff can do nothing to stop the abuses they witness. And yet, the blame falls on them all.

The sources claim that Moraes was initially unaware of this conflict. Things changed after the January 8 events, when staff pointed out that the AEED still lacked access to the biometric bank. Moraes then issued a formal order authorizing the use of internal TSE databases. The AEED team was then given access to GestBio and began using it to identify protesters based on images.

The goal of this search was to find a recent photo of each detainee. Once they matched a name to a face, the team scoured social media platforms for posts that could be interpreted as “anti-democratic.” The criteria changed from case to case. The standard was whatever the team could find. It might include:

- Sharing social media posts about the protests;
- Criticism of the Supreme Court or President Lula;
- Participating in a Telegram or Whatsapp group;
- Retweeting election-related content labeled “disinformation.”
- Mentions in news reports;
- Anonymous denunciations posted online.

Each report was based on quick searches across platforms like Facebook, Instagram, Twitter, TikTok, YouTube, Telegram, and Gettr. If any content was found, the detainee received a “positive report.” The main sources used to justify the labels were often news articles and anonymous Twitter profiles — frequently with no verification of authorship or context.

That alone was enough to justify detention — regardless of criminal record, violent behavior, or even presence inside government buildings. If no such content was found, the detainee might be labeled “negative.” Either way, decisions were made in minutes.

Errors were common. In one case, a woman named Vildete was mistakenly flagged as “positive.” Minutes later, the team realized they had confused her with someone else and changed her label to “negative.” The woman was likely [Vildete da Silva Guardia](#), a 74-year-old retiree who became one of the most symbolic victims of abuse. Even with a corrected report, she remained in jail — and was only released 21 days later due to severe intestinal bleeding.





Vildete da Silva Guardia, 74, was hauled from her home to prison and later handed a sentence of 11 years and 11 months after ducking into the Planalto to escape police tear-gas; more than a year on, the grandmother remains behind bars in a wheelchair, her bids for medical release repeatedly refused.

She was later convicted of criminal association and attempting to overthrow the democratic rule of law by force. Her sentence: 11 years and 11 months in prison, plus a R\$30 million fine shared with co-defendants. In June 2024, she was rearrested under a broad claim of “risk of flight.” Despite visible physical decline and chronic illness, she spent ten more months in prison until granted house arrest in April 2025 — following public outrage over the death of another detainee, [Cleriston Pereira da Cunha](#), known as Clezão, who died in custody after Moraes ignored a recommendation for his release from the Attorney General’s Office.

But leniency for Guardia wouldn’t last long. In July 2025, claiming she disrespected his conditions for house arrest, Moraes sent her back to closed custody.

Another detainee, Claudiomiro da Rosa Soares, a truck driver, was flagged as “positive” for a series of Facebook posts. He had criticized President Lula and questioned the 2022 election. Among the cited content: a meme asking “How did this guy get 60 million votes?” after Lula was booed at Pelé’s funeral; a comment accusing Supreme Court justices of being “sellouts”; and a reposted news story about election fraud with a comment: “So, according to Egghead (Moraes), nobody can question anything?”

13/03/23, 14:49

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TRIBUNAL SUPERIOR ELEITORAL
CERTIDÃO
PET 10820 – AUDIÊNCIAS DE CUSTÓDIA

CERTIDÃO POSITIVA

Certifico que, em pesquisa nesta data, foram encontradas as seguintes ocorrências em redes sociais do custodiado abaixo relacionado:

CLAUDIOMIRO DA ROSA SOARES (Data de Nascimento: 23.07.1974)

OCCORRÊNCIAS:

1. Perfil no Facebook com postagens antidemocráticas e que revelam inconformismo com os resultados das eleições de 2022:

URL: <https://www.facebook.com/claudiomiro.darosasoaes>

2023.00.000000275-6 Documento nº 2346424 v2

https://tes.jus.br/tribunalcorrelador.php?acao=documento_inprimir_vetBolsao_origem=ver_vetBolsao_documento=2463748&id=tdtem... 1/3

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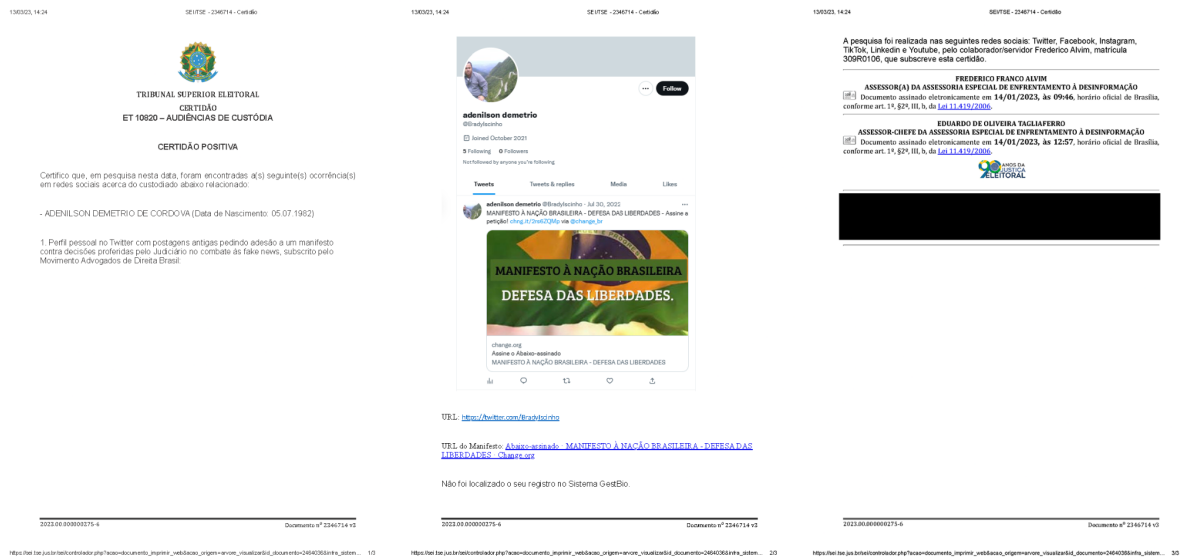
2023.00.000000275-6 Documento nº 2346424 v2

https://tes.jus.br/tribunalcorrelador.php?acao=documento_inprimir_vetBolsao_origem=ver_vetBolsao_documento=2463748&id=tdtem... 3/3

Positive report issued against Claudiomiro Soares, a truck driver. ID data redacted. He expresses skepticism against Lula’s victory and says, about Moraes, “According to the egg head, nobody is allowed to question?”

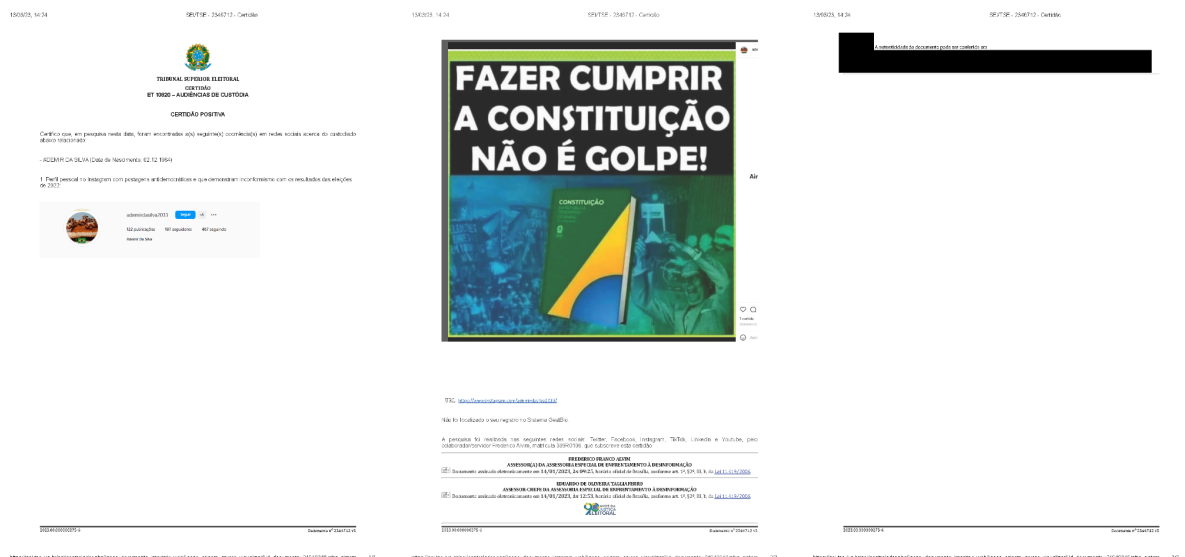
Soares wasn’t arrested during the riots, but the next day, January 9, at the Army HQ in Brasília. Soares spent 11 months and 7 days in jail without ever committing a violent act.

In another case, Adenilson Demetrio de Cordova received a “positive” label because of a single post found on X. It linked to a petition titled “Manifesto to the Brazilian Nation – In Defense of Liberty,” published months before the 2022 election by a profile with zero followers and zero views. The [petition](#), launched by the group Right-Wing Lawyers Brazil, had over 1.66 million supporters and expressed peaceful support for then-president Jair Bolsonaro. Cordova was arrested in Brasília on January 8. He claimed he was peacefully protesting for basic rights. He spent four months in prison, followed by over a year under house arrest with an ankle monitor. In a public fundraiser from June 2024, he described being overwhelmed by debt and unable to afford legal defense.



Positive report issued against Adenilson de Cordova. The “evidence” against him is a single tweet sharing a link to a petition “in defense of liberties.” He had zero followers. Sensitive TSE data redacted.

One detainee, Ademir da Silva, was classified “positive” based on a single Instagram post. The image read: *“Enforcing the Constitution is not a coup.”* That alone was classified as “anti-democratic” and as evidence of “discontent with the 2022 election results.” No other content was cited.



Positive report issued against Ademir da Silva. The report contains a single Instagram post. Sensitive TSE data redacted.

An even more absurd case involved another Ademir— this time Ademir Domingos Pinto da Silva, a 54-year-old street vendor from southern Brazil. He [wasn't even present at the January 8 riots](#). He arrived later that night at the military camp in Brasília, after the storming

had ended, just to sell flags and T-shirts. Police blocked him from leaving, and he was detained. He was labeled “positive” not for any act of violence, but for tweets from 2018 criticizing Lula and the Workers’ Party. None of them mentioned January 8 — or even the 2022 election.

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13/03/23, 14:24

SE/ITSE - 2346713 - Certidão

TRIBUNAL SUPERIOR ELEITORAL
CERTIDÃO
ET 10820 – AUDIÊNCIAS DE CUSTÓDIA

CERTIDÃO POSITIVA

Certifico que, em pesquisa nesta data, foram encontradas a(s) seguinte(s) ocorrência(s) em redes sociais acerca do custodiado abaixo relacionado:

- ADEMIR DOMINGOS PINTO DA SILVA (Data de Nascimento: 15.03.1970)

1. Perfil pessoal no Twitter com postagens antigas que exprimem aversão a Lula e ao Partido dos Trabalhadores



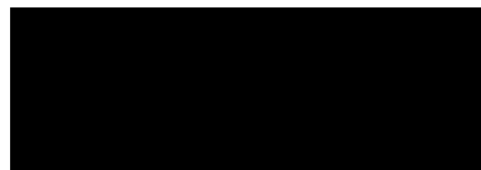
2023.03.09.0000275-6 Documento nº 2346713 v5

https://sei.tse.jus.br/sei/controlador.php?acao=documento_imprimir_web&acao_origem=arvore_visualizar&id_documento=2464035&infra_sistem... 1/2

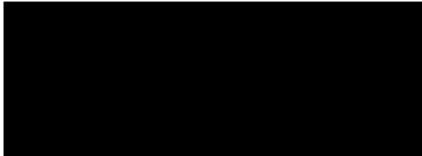
URL: <https://twitter.com/AdemirDomingos>

Foi localizado o seu registro no Sistema GestBio:

Detalhamento Biográfico



Informações da base de dados da Receita Federal - bCPF



A pesquisa foi realizada nas seguintes redes sociais: Twitter, Facebook, Instagram, TikTok, LinkedIn e Youtube, pelo colaborador/servidor Frederico Alvim, matrícula 30590106, que subscreve esta certidão.

FREDERICO FRANCO ALVIM
ASSESSOR(A) DA ASSESSORIA ESPECIAL DE ENFRENTAMENTO À DESINFORMAÇÃO

Documento assinado eletronicamente em 14/03/2023, às 09:23, horário oficial de Brasília, conforme art. 1º, §2º, III, b, da Lei 11.419/2006

EDUARDO DE OLIVEIRA TAGLIAFERRO
ASSESSOR-CHEFE DA ASSESSORIA ESPECIAL DE ENFRENTAMENTO À DESINFORMAÇÃO

Documento assinado eletronicamente em 14/03/2023, às 12:54, horário oficial de Brasília, conforme art. 1º, §2º, III, b, da Lei 11.419/2006

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Positive report issued against Ademir Domingos da Silva. All the disinformation team could gather against him were five tweets he wrote in 2018 criticizing Lula and other leaders of the Workers’ Party. Personal data from GestBio redacted.

Still, his report was signed by the TSE’s disinformation unit and used to justify four months in prison and a criminal conviction. He now wears an ankle monitor and is required to complete community service and attend a court-mandated course about democracy and coup attempts. His [lawyer called the case](#) “a shameful stain on the Supreme Court” and said Ademir was convicted “without a single justice reading his file.”

These were not isolated cases. Even individuals with “negative” reports were often kept behind bars for weeks or months. The criteria for continued detention remain opaque. According to the Supreme Court itself, out of the 1,406 people arrested after January 8, 942 had their detention converted into preventive custody. Only 464 were granted provisional release.

Our team analyzed the spreadsheets used by the TSE task force to classify detainees. Among 1,879 unique names, 319 individuals were issued some form of digital report —

based on the 75 reports we were able to access (the reports were not always individualized). A total of 1398 reports were issued, according to Tagliaferro in the leaked WhatsApp chat.

Of the records reviewed, 42 people were tagged “positive” and 277 “negative.” We then crossed the data with two lists issued by the STF: one for [those who were released](#) and another for those who [were sent to prison](#) after the hearings. Out of the 319 individuals, 251 were on either of the two lists (36 positive, 215 negative). The main pattern observable with our sample is that while a negative report was no guarantee of release, not a single person who was issued a positive report was released.

Even among the “negatives,” 68% were also kept behind bars — directly contradicting the claim made by Kusahara, chief of staff to Justice Moraes, that most detainees would be released based on this screening.

Among them are:

- Regina Aparecida Modesto – A 55-year-old engineer and ordained pastor from São Paulo. Arrested after going to Brasília to pray with a group of pastors on January 8. She was sentenced to 17 years in prison. She spent seven months in pre-trial detention, lost her home and contracts worth millions, and developed signs of colon cancer while in custody.
- Dirce Rogério – A 55-year-old woman from Santa Catarina. Despite no evidence of violence she was sentenced to 16 years. The Federal Police rearrested her in 2024, claiming risk of flight.
- Jaqueline Freitas Gimenez – Mother of two young children. Convicted to 17 years in prison for participating in protests. She has struggled to access legal defense since her arrest.
- Alessandra Malvina Trindade – Accused of incitement for attending peaceful protests. Never entered public buildings and did not participate in the January 8th riots.
- Rafael Teixeira Marques – A systems analyst from Brasília. He was not convicted but is under harsh restrictions: banned from social media, with passport confiscated and curfew imposed — despite a negative report and no violent conduct.
- Edemilson da Cruz – Indicted in 2023 and held in Papuda Prison. Despite no record of violent actions and a negative report, he remained in custody for months under orders from Justice Moraes.
- Carlos Roberto Horstmann – Listed among the 942 detainees kept in prison after custody hearings, even though his digital screening showed no incriminating evidence.

There was no clear or consistent logic behind who among the “negatives” was released and who remained jailed. Hundreds stayed behind bars for nothing more than attending protest camps or posting vague political messages — often old, irrelevant, and far from violent.

Part I: The Custody Hearings

In the weeks following the January 8 arrests, hundreds of detainees remained in jail — even when the Prosecutor General’s Office formally recommended their release. Lawyers, families, and public defenders had no clear explanation for why the requests were being ignored.

On January 10, just two days after the mass arrests, Justice Alexandre de Moraes signed an order centralizing all decisions on detention. Under Brazilian law, [custody hearings](#) exist to protect detainees’ basic rights — to check for police abuse and determine whether continued detention is justified. In this case, however, they appear to have been used merely to rubber-stamp outcomes dictated elsewhere. Lower-court judges were allowed to conduct custody hearings, but only to verify that arrests had occurred legally— not to rule on whether someone should be released. All decisions regarding detention would remain with Moraes.

A [report](#) published on January 23, 2023, by Brazil’s Public Defender’s Office, the Federal District Public Defender’s Office, and the National Mechanism for the Prevention and Combat of Torture criticized the removal of judicial authority and warned of serious human rights violations during the custody hearings that followed the January 8–9 arrests in Brasília. Judges had been stripped of their power to grant release, and in some cases, people remained in jail even without a formal request from the prosecution.

Attorney Ezequiel Silveira, from Association of Families and Victims of January 8 (ASFAV), who represents dozens of defendants accused in connection with the events of January 8, says the custody hearings were “mere simulations of legality in a process tainted from the outset.” He notes that legal deadlines were ignored, with delays of up to 22 days—violating the Code of Criminal Procedure, which requires a hearing within 24 hours of arrest.

What public defenders and attorneys suspected, but couldn’t yet prove, can now be confirmed by a message revealed in the *January 8th Files*. On February 13, Kusahara — chief of staff to Moraes — sent a blunt note to the internal WhatsApp group:

“The Prosecutor General asked for their release, but the Justice doesn’t want to let them go before we check their social media.”

The message revealed the real reason behind the delays: liberty was not being decided based on legal arguments, hearings, or case files — but on informal digital scans ordered by Moraes himself.

A Judge’s Emojis Revealed the Farce Behind the Hearings

On March 1st, 2023, Judge Airton Vieira sent a farewell message to the WhatsApp group. He had just wrapped up his role overseeing the custody hearings for the January 8 detainees.

“I’ll say my goodbye here, since I’ve already done so in the other groups... May we give each person what they deserve: prison! 🤔🤔🤔🤔🤔”



The mocking emojis came from a judge tasked with ensuring fairness and due process. Yet here he was, openly celebrating the outcome — as if guilt had already been presumed, long before any trial. Judge Vieira’s emoji-laden message didn’t just break decorum. It revealed a prior judgment, lack of impartiality, and the institutional cynicism behind an operation that suspended due process while pretending to uphold it.

His reference to 'other groups' hinted at something deeper: the existence of multiple parallel chats beyond the one now leaked. According to our sources within the TSE, there were indeed several other WhatsApp groups used to discuss official matters — all part of a broader, compartmentalized network operating entirely in the shadows.

That system had already been denounced by ASFAV in a 100-page report that anticipated many of the abuses now confirmed by the leaked chats. It documented hearings held outside the legal 24-hour window, judges blocked from ordering releases, and the absence of basic safeguards like forensic exams or access to case files. In many instances, prosecutors had already filed charges before the hearings even took place.

ASFAV's report also noted that judges lacked access to full records and were operating under strict constraints imposed by the Supreme Court. Moraes had delegated only the verification of documents — reserving all substantive decisions for himself. The hearings were never meant to assess the cases. They were staged to rubber-stamp outcomes already decided.

Women's Day Release Used for Media Effect

One of the clearest signs that detention decisions were political — not legal — came two months after the January 8 arrests.

On March 8, 2023, Brazil's Supreme Court made headlines by announcing the release of 149 women arrested during the protests. The timing was no coincidence: it was International Women's Day, and the gesture was widely celebrated in the press as an act of compassion and justice.

But behind the scenes, leaked chats told a different story.

Five days earlier, on March 3, Kusahara relayed an instruction from the judge to Eduardo Tagliaferro, head of the TSE's disinformation unit: the team should investigate whether any of the detained women had participated in WhatsApp or Telegram groups "about the coup." The goal wasn't to determine who could be safely released, but rather to find justifications to keep them jailed.

On the morning of the announcement, Cristina messaged Tagliaferro again, asking if the positive reports for the women were "easy to print" so she could present them to Moraes. A few hours later, Tagliaferro replied: there were 17 women with positive reports, and he listed their names. The women remained jailed for two full months, waiting for the public-relations stunt.



The Supreme Court never explained why some were released and others weren't. No official list of the 149 detained women was ever published.

We searched through news reports and, based on publicly available information, only one woman — Camila Mendonça Marques, a 35-year-old construction supplies retailer and mother of two young children — can be definitively confirmed as having been released on March 8. Her release was explicitly granted because she was the sole caretaker of her 5- and 9-year-old sons. The others remained in custody.

Marques's release didn't last. She was re-arrested months later — not for any new crime, but because her electronic ankle monitor stopped working. Authorities also accused her of planning to flee, citing the sale of personal belongings as suspicious behavior.

She wasn't alone. Dozens of others were sent back to prison for similar reasons: malfunctioning monitoring devices, vague suspicions, or simply because other January 8 defendants had fled. In many cases, no concrete evidence of an escape plan was ever presented. The assumption alone was enough.

Part II: TSE's Use of External Operatives to Target Dissidents

As the task force scrambled to classify female detainees ahead of a planned mass release on International Women's Day, officials turned to an even more obscure resource: outside collaborators with no official role in the investigation.

On March 3, 2023, when Kusahara relayed a personal request from Justice Moraes to find evidence linking the women to "coup-related" WhatsApp or Telegram groups, Tagliaferro pushed back. The content had already been deleted, he said, and the TSE itself had erased some of the records. Still, in an effort to comply, he asked if he could reach out to what he called "external partners" — individuals who had previously infiltrated private group chats and collected data for the court.

Cristina hesitated. She feared leaks. Then she told him to bypass official government channels and send the request directly to a personal email account used by Moraes: *alegemeos@uol.com.br*. "I already told him you'll be writing," she added. Tagliaferro complied: "Sent. I tried to keep it as simple and careful as possible".





Although Tagliaferro later wrote that he received no response from the minister and would proceed with the standard course of action, sources at the Electoral Court say the minister did reply to the email and gave his approval.

Days later, Cristina followed up: had the partners found anything? Tagliaferro responded that the WhatsApp and Telegram groups had already been deleted after the January 8 events, making it difficult to collect anything useful. Faced with a lack of evidence against specific detainees, officials inside Brazil's highest court tried to activate a clandestine surveillance network.



According to a former TSE employee, the so-called “partners” infiltrated messaging groups included fact-checking agencies such as Agência Lupa and academic institutions like FGV and UFRJ. These partners didn’t merely send reports or tips to the TSE — they also received direct investigative requests from the Court.

This wasn’t the only time court staff relied on outsiders. This was not an isolated case. As previously [reported](#) by A Investigação, ideologically aligned activists and journalists sent unofficial dossiers directly to Alexandre de Moraes. Some of these were later used to justify censorship orders or detentions.

The most notorious example was the journalist Letícia Sallorenzo, known in Vaza Toga files as “the Witch.” A devoted supporter of Moraes, she styled herself as a disinformation expert. Sallorenzo compiled lists of targets and sent them directly to the TSE. In her academic work, she defended online censorship applied by Moraes using the theory of

firehosing — the RAND Corporation concept that a flood of rapid, repetitive messaging, even if not entirely false, can overwhelm the public and distort perception.

The inquiries led by Moraes accusing Bolsonaro of plotting a coup d'état suggest that Sallorenzo is not merely an admirer of the minister. Her academic theories have been used to support the Federal Police's claim that, since 2019 — the beginning of Bolsonaro's presidency — he had been conspiring to overturn the 2022 election.

By outsourcing parts of the intelligence process to people like Sallorenzo — individuals with no public accountability, no judicial mandate, and no legal oversight — Brazil's highest court blurred the boundary between institutional duty and political enforcement. No warrants. No transparency. Just a closed loop of loyal collaborators feeding a judicial machine with data gathered off the books.

What Law Experts Say

One of the most vocal critics of Supreme Court Justice Alexandre de Moraes is former Justice Marco Aurélio Mello, who has repeatedly condemned the concentration of power in Brazil's Supreme Court and the lack of transparency exposed by the "Vaza Toga" scandal. He says the Court is going through a moment of "extravagance" and warns that "what starts wrong cannot end well," noting that without a review body, due process is compromised. Asked about Moraes' motivations, he quipped: "I would have to put him on a therapist's couch and analyze what he thinks, what's behind all this."

Mello calls the concentration of powers "nefarious," arguing that institutions must respect their roles: "The police investigate, prosecutors press charges, and the Judiciary judges." He also denounces the use of apps like WhatsApp to discuss cases, revealed by the Vaza Toga leaks. "I always required formal communications to ensure transparency. Citizens must be able to follow the actions of the State," he said.

On January 8, Mello considers the sentences handed down to rioters disproportionate: "I cannot understand how they can be sentenced to 15, 16, 17 years in prison. Those are sentences for murderers or armed robbers, not for rioters or vandals." Mello also supports the Amnesty Bill for those involved in January 8, calling it a step toward national reconciliation. "It is positive, a way of turning the page," he said.

We submitted the leaked conversations and official records to legal scholars to identify potential illegalities and evaluate whether the actions were consistent with the Constitution and due process of law.

According to Richard Campanari, the measures adopted by Brazil's Superior Electoral Court (TSE) following the events of January 8 overstepped the legal boundaries of electoral justice. He argues that, as revealed by this investigation, the court began exercising functions typical of criminal investigative authorities — without constitutional mandate, transparency, or respect for due process.

“What was meant to be a technical and neutral body, focused on preserving the integrity of the electoral process, was turned into an informal mechanism of political repression,” he said.

Campanari contends that, under the guise of combating disinformation and defending democracy, the TSE unlawfully expanded its police powers, violating the principle of strict legality that governs public administration, under Article 37 of the Constitution. He points to TSE’s Resolution No. 23.714/2022, issued just before the second round of the election, which authorized exceptional measures such as content removals and account suspensions — but was valid only until October 30, 2022. Using this resolution to justify investigative actions in January 2023, he says, was a clear overreach both in scope and timing. “The Electoral Court’s policing power is limited to the form and medium of campaign advertising — never the content of political expression, and certainly not outside the electoral period.”

He also notes that the resolution bypassed the legal requirement for the Public Prosecutor’s prior request, allowing the TSE to act on its own initiative, and preemptively applied legal interpretations still pending judgment in Brazil’s Supreme Court concerning the country’s Internet Civil Framework. “It imposed sanctions on digital platforms without judicial oversight or the right to a defense,” he added.

Campanari believes the AEED — the TSE’s Special Advisory on Combating Disinformation — began operating as a parallel criminal screening structure without any legal basis. As uncovered by this investigation, teams under the TSE’s direction accessed biometric databases like GestBio, combed through social media profiles, and generated internal reports where mere criticism of the Workers’ Party or former President Lula was treated as an indicator of radicalization.

“Both AEED and CIEEDE were created to function only during election periods. Once they went beyond that scope, these technical units began acting as unofficial arms of criminal prosecution, undermining Brazil’s accusatory system and the separation of powers. The Constitution is clear: only the judicial police and public prosecutors are authorized to investigate crimes. When the TSE assumes this role, it oversteps its jurisdiction and distorts the criminal justice model.”

He considers especially serious the allegation that informal AEED reports were used to justify pretrial detentions, even when prosecutors had recommended release. “If these documents were never formalized, never subjected to adversarial review, and were withheld from defense attorneys, then using them to justify imprisonment directly violates Article 5 of the Constitution.”

In his assessment of the report’s findings that TSE staff, without court authorization, collaborated with external actors — such as journalists — to infiltrate private groups on messaging apps like WhatsApp and Telegram, Campanari warns this could constitute illegal surveillance and abuse of authority, as well as violations of constitutional rights to privacy and the confidentiality of communications.

Finally, he criticizes the centralization of detention-related decisions in the hands of a single Supreme Court justice, which he says nullified the role of the natural judge in custody hearings. “The law is clear: it is the competent judge who must assess the legality of an arrest. When that authority is stripped away and concentrated in one person, impartiality is lost, and the principle of the natural judge is violated.”

“Brazil is witnessing, with alarming passivity, the expansion of judicial power beyond constitutional limits. Fighting disinformation — though important — cannot justify the erosion of civil liberties or the construction of a political repression apparatus. History shows us: you don’t defend democracy by killing the rule of law.”

To attorney Enio Viterbo — a specialist in constitutional and political law who holds a PhD in History from Universidade de Lisboa — the leaked conversations indicate that Minister Alexandre de Moraes relied on TSE staff to carry out an off-the-record investigation into detainees. He argues that the use of the TSE’s internal systems to identify individuals and examine their social media activity constitutes a clear misuse of institutional purpose.

Viterbo notes that while the Supreme Court may formally request information from public bodies, it cannot reassign civil servants or override institutional boundaries without following proper legal procedures. The reassignment of personnel within the federal administration must follow specific protocols, and the unilateral deployment of TSE staff by judicial order amounts to a breach of legality.

He also points out that in the official act, Moraes referred to the “terrorist acts of January 8,” even though none of the defendants have been charged with terrorism. For Viterbo, such language reveals a lack of judicial impartiality.

He further emphasizes that the TSE cannot act as an extension of the Supreme Court. Any request for personal data must come from the Public Prosecutor’s Office or law enforcement, be properly justified, and authorized by a competent judge. The TSE’s internal units have no authority to conduct criminal investigations or replace judicial police functions. “How could the Prosecutor’s Office supervise an investigation conducted informally by people directly tied to Moraes, using WhatsApp and internal databases?” he asks.

Finally, he questions the legality of the custody hearings. Although the delegation of judicial duties is permitted, delegating only the power to conduct the hearing — without the authority to release the detainee — renders the proceeding meaningless. “What kind of custody hearing is it if the presiding judge doesn’t even have the power to review the legality of the arrest?” he concludes.

According to attorney André Marsíglia, a freedom of expression specialist, it's illegal for the TSE to produce reports that influence judicial decisions, such as the arrest or release of January 8 defendants. He argues that the task of investigating and building a case belongs solely to the Public Prosecutor's Office, which must remain independent from the court that issues rulings.

"The body responsible for judgment cannot be the same one producing the evidence," he says. "This represents an unconstitutional takeover of prosecutorial functions — a distortion typical of authoritarian regimes, where the law is weaponized as a tool of revenge."

Marsíglia points out that such a delegation of investigative power is inherently illegitimate. "Once an investigative body is subordinated to the same court that will later judge the case," he explains, "the entire process is tainted from the start — undermining the fundamental principle that those who prosecute must be separate from those who rule."

Silvio Kuroda, lawyer for a January 8 defendant, Expert in Public Law and former adviser to a Justice of Brazil's Superior Court of Justice, raises concerns about the legality of the January 8 lawsuits. According to Kuroda, Deputy Prosecutor Carlos Frederico dos Santos did not, in theory, have the constitutional authority to bring charges — a responsibility that belonged, according to official rules, to Deputy Attorney General Lindôra Araújo, who was still in office and had not been removed.

Lindôra had previously shown resistance to politically motivated investigations and had clashed with Justice Alexandre de Moraes over similar cases. She had even attempted to shut down the so-called "fake news inquiry" and, in a confidential legal opinion from the Prosecutor General's Office revealed by *Folha de S.Paulo* on August 22, 2024, she classified as unconstitutional and illegal the Supreme Court's use of the AEED to feed the investigation. The document, signed by Lindôra herself, requested the annulment of investigative measures and the reversal of court decisions based on the unit's reports, arguing that these were "investigative measures carried out *ex officio* by the Judiciary, in violation of Brazil's accusatory system." The opinion warned that the AEED was exercising functions typical of a criminal investigative police force, exceeding its original mandate, which was restricted to combating electoral disinformation. The PGR was emphatic:

"It cannot be admitted that an Electoral Judiciary body, under the pretext of combating disinformation, carries out investigative measures aimed at collecting evidence regarding the authorship and materiality of criminal offenses."

Her sidelining, without formal replacement, allowed then-Prosecutor General Augusto Aras to bypass her by appointing Carlos Frederico to lead an emergency task force investigating the so-called "anti-democratic acts." But this special role did not grant him legal powers to indict defendants. Nevertheless, Carlos Frederico became the public face of the prosecution and was later nominated for a seat on the Superior Court of Justice. On July

10, 2025, however, President Luiz Inácio Lula da Silva instead appointed Maria Marluce Caldas Bezerra, a state prosecutor from Alagoas, to the court. As a result, Deputy Prosecutor General Carlos Frederico was not able to take the position and, consequently, will not have functional jurisdiction before the Supreme Court if future investigations into potential misconduct are ever pursued.

Kuroda argues that the case violated a core constitutional principle in Brazil: only a legally assigned prosecutor has the right to file criminal charges — not someone appointed ad hoc for a specific case. He draws a parallel to the U.S., where in 2024 a federal judge ruled that Special Counsel Jack Smith had been unlawfully appointed to prosecute former President Donald Trump, lacking the proper legal mandate to do so.

Attorney Hugo Freitas, a master of laws from the Federal University of Minas Gerais (UFMG), warns that preventive detention can only be imposed to protect public order when the judge identifies a real threat posed by the suspect's release. Likewise, the law requires revocation of the measure once that threat no longer exists.

He points to a serious deviation from this principle. The materials obtained by the report suggest that release or continued imprisonment was being decided based on "social media activity" that amounted to expressions of opinion — not concrete indications of criminal intent. "In practice, the State is granting or denying freedom based on citizens' ideological views. That is incompatible with the Constitution, which upholds equality and prohibits all forms of political or ideological censorship," he said, citing Article 220, paragraph 2.

Freitas connects this practice to a broader pattern seen in the so-called "End-of-the-World Inquiry" led by the Supreme Court. "The police are being used to investigate opinions expressed on social media. If someone posts something aligned with a certain political stance, it's treated as a sign of criminal association, which exposes the person to prosecution."

He says the justice system is being diverted from its legal mission. "The justice system should exist to investigate and punish crimes as defined by law. But this case reinforces the perception that the Supreme Court, the Attorney General's Office, and the Federal Police are using it for political purposes. That is unconstitutional. The State cannot assume powers beyond what the law allows."

He cites as an example the non-prosecution agreements (ANPPs) offered to many January 8 defendants, which required them to attend a "course on democracy." "The State has no authority to force citizens into reeducation sessions. The Constitution does not grant it the power to control people's ideologies. Citizens are free to think as they wish — even to oppose democracy itself. What the law allows is only the repression of specific criminal acts."

He also criticizes the decision by the Supreme Court to publicly link the release of women prisoners to International Women's Day. "That gives the impression of a court guided by symbolic gestures rather than legal criteria," he said.

Former prosecutor and congressman Deltan Dallagnol says it's noteworthy that in his order that gave the disinformation task force access to the biometric database, Moraes called the detainees "terrorists." To his knowledge, "there is no crime of terrorism in Brazil where the motive is election-driven, and Moraes, as a Supreme Court Justice, knows this. It is a crass mistake to call the January 8 actions 'terrorist.' This language is completely inadequate."

Dallagnol argues that Moraes's politically charged language "suggests—absent a more plausible explanation—that the Justice set out to construct an inculpatory narrative about the detainees, cultivating a climate in which repressive measures would appear justified. That is far removed from the judicial detachment and impartiality expected of a judge. As the Judge-Rapporteur, it also betrays pre-judgment at the very inception of the inquiry. In mature democracies, a combative public stance of this kind by the judge responsible for the case would ordinarily warrant recusal and replacement."

Beyond rhetoric, he alleges structural illegality. Dallagnol contends that Moraes unlawfully used the AEED "as a private investigative arm". He anticipates Moraes's defence that the TSE's "police powers" allowed it, and rejects it: "Moraes activated the AEED outside the electoral period and for criminal investigations, which are not within its remit. The AEED was set up for administrative tasks by the Electoral Justice, to exercise police powers aimed at curbing disinformation. Such powers at the TSE exist only during the electoral period and are administrative in nature, not criminal; they must not be conflated. The principle of legality binding Public Administration permits only what the law expressly authorises. Using an administrative—electoral unit to conduct criminal inquiries was a glaring illegality."

According to him, there is no legal basis for inserting the AEED into Supreme Court criminal inquiries, which are limited to the suspect or defendant, the judicial police, the Public Prosecutor's Office and the court. He characterises the arrangement as a kind of "personal PGR" feeding materials into cases reported by Moraes himself.

He draws two precedent lines. First, Operation Satiagraha: the STJ's Fifth Panel annulled the investigation on 7 June 2011 because ABIN intelligence agents clandestinely took part in Federal Police acts, likening the scheme to a "secret police" and applying the fruit-of-the-poisonous-tree doctrine; in December 2014 the STF also quashed the initial searches. Dallagnol says AEED's covert role in criminal inquiries is a direct parallel: public servants acted without legal authority, which should contaminate the cases.

Second, Operation Castelo de Areia: on 5 April 2011 the STJ's Sixth Panel threw out the case after finding the wiretaps unlawful because the probe began from an anonymous tip without independent corroboration. For Dallagnol, the relevant lesson is the court's censure of "hidden reasons"—deciding on information known to investigators and the judge but absent from the record and inaccessible to the defence.

He further alleges suppression of potentially exculpatory items: lawyers, he says, were denied AEED reports stating that no incriminating social-media posts were found for certain suspects, because these documents were not joined to the case files. He analogises this to the US Brady rule requiring disclosure of exculpatory material.

Dallagnol also claims Moraes merged roles—as TSE president allegedly directing AEED inquiries and, at the Supreme Court, judging the resulting cases. He says this amounts to impediment, aggravated by the covert nature of the arrangement, which he frames, in theory, as ideological falsehood to conceal the impediment and a potential impeachable offence under the responsibility law.

Finally, he argues that the judge's inquisitorial, evidence-gathering role usurped functions of the Public Prosecutor's Office and breached Brazil's accusatorial system, citing Code of Criminal Procedure Article 3-A ("the judge is barred from initiating investigation and from substituting the prosecution in evidentiary activity"). In his view, that "breaks judicial impartiality" and renders the judge suspect or impeded.

Renowned Brazilian law scholar Ives Gandra da Silva Martins says that Moraes has turned the anti-disinformation unit at the TSE into a guardian of what Brazilians are allowed to say.

"Despite respecting and considering the current Justices of the Supreme Federal Court (STF) to be valuable jurists, I adhere to a different doctrinal school of thought than the one they embrace", adds the scholar.

"For them, and especially for Justice Alexandre de Moraes, the Supreme Court has the role of legislating in legislative vacuums when requested, and can intrude upon the Executive and Legislative branches in defense of their vision of the Rule of Law. These are doctrinal currents stemming from parliamentary systems of government, where there isn't a clear separation of powers and, in my view, are incompatible with the presidential system, where this separation is clear, distinct, and the bedrock of the regime. These include neo-constitutionalism, consequentialism, and constitutional jurisdiction, which were not contemplated in the 1987/88 Constituent Assembly by articles 49, item XI, 103 §2º, 102 *caput*, 1º and 2º. These provisions enshrine a rigid separation, differing from the foundations of the three aforementioned currents."

"For this reason, I understand that direct interference in social media, in an attempt at "prior" rather than "subsequent" control of communication abuses, violates the provisions of article 220, *caput*, and article 5º, items IV and V."

"Therefore, I also diverge from the new wording they gave to article 19 of the Internet Law, in which there is prior control to prevent any abuse and not "a posteriori" as mandated by item V of article 5º of the Republic's Charter."

"My position is that of Justices Fachin, André Mendonça, and Kassio Nunes, who are against any censorship or prior control."

"Based on these fundamentals, I also diverge from the reasons that led Justice Alexandre de Moraes to turn the AEED into a kind of guardian of what can or cannot be said in Brazilian democracy."

Statements From Those Involved

We requested comment from the TSE, STF, PGR, Cristina Kusahara, Alexandre de Moraes, Aírton Vieira, Marco Antônio Martins Vargas, Letícia Sallorenzo and the Brazilian Army. None had responded by the time of publication.

Attorney Eduardo Kuntz, who represents Tagliaferro, said he was not aware that his client was being investigated for the facts presented in the report. "According to the article, he merely complied with the orders that were given to him, and any possible irregularities should be investigated against those who issued the orders, to determine their legality or not," he stated.

Kuntz added that Tagliaferro "is a serious professional, with an unblemished reputation and always available to the courts for any and all clarifications that may be required."

Finally, the attorney said he believed there was "some mistake," since Tagliaferro was an employee of the TSE and the report refers to a possible action by the Supreme Federal Court (STF). "It would not be possible for him to have participated or been involved, as the elections would have ended several months ago," he said. According to him, such actions "do not involve electoral matters."

Attorney Ezequiel Silveira, from ASFAV, thinks pretrial detentions or releases were not based on the legality of the arrests, but on the political views of the detainees. "The real criterion was whether or not the person was critical of the STF–Lula government regime, based on informal certificates that aren't even part of the case files," he says.

Silveira reports conducting a thorough review of Petition 10820, which contains the custody hearing records, and Criminal Case 1060, without finding any reference to the certificates produced by the TSE's Special Task Force for Combating Disinformation (AEED). "This only reinforces the clandestine nature of the TSE's actions," he concludes.

Silveira argues that the AEED's investigative role is unconstitutional. He explains that agencies with criminal investigative powers must be created by law, not by internal regulations or administrative orders. "Even if one were to accept its existence, the AEED should have been dissolved after the end of the electoral period," he states.

"These reports are illegal. They were produced by an agency subordinate to the judge, without access by the defense or the prosecution, violating the accusatory system and tainting the proceedings under the doctrine of the fruit of the poisonous tree," Silveira says. He also criticizes the concentration of decision-making in the hands of Justice Alexandre de Moraes, while judges conducting custody hearings were restricted to validating formalities.

"It was a legal innovation with no basis in law, and it undermines the legitimacy of the decisions that followed," he adds.